PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY , DECEMBER 12 , 19 89

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE COUNCIL CHAMBERS Tuesday EVENING December 12 ,19 89 , IN Regular SESSION. PRESIDENT Charles B. Redd IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE FOLLOWING MEMBERS VIZ:

BRADBURY ✓, BURNS ✓, EDMONDS ✓,
GiaQUINTA ✓, HENRY ✓, LONG ✓,
REDD ✓, SCHMIDT ✓, TALARICO ✓,

ABSENT:

COUNCILMEMBER: , ,
, ,

THE MINUTES OF THE LAST REGULAR November 28 ,19 89,
,19 ,
SPECIAL ,19 ,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION, APPROVED AND PUBLISHED.

THE CITY OF FORT WAYNE

30 December 1989

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
CityCounty Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-89-11-21

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
30th day of November 1989.

Robert Hutner
Secretary

FACT SHEET

Z-89-11-21
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE: Zoning Ordinance Amendment From R-3 to M-1

APPROVAL DEADLINE:

REASON:

DETAILS

Specific Location and/or Address

1514 Cass Street

Reason for Project

Expansion of business - temporary storage and parking.

Discussion (Including relationship to other Council actions)

20 November 1989 - Public Hearing

Stu Weliever, attorney for petitioners LGL Properties appeared before the Commission. Mr. Weliever stated that this property is a vacated independent Baptist Church and an open lot. He stated that LGL bought the property in question in February 1986. He stated that it was vacant at the time. He stated that the petitioners own approximately 90% of the block and have been located on the block since 1984. He stated that half of the block is presently zoned M-1 and another quarter is zoned M-2. He stated that they intend to use the property for temporary storage inside the church and the open lot is to be used for parking during the day. He stated that they have not received any complaints from the area residents and feel that they have a good relationship with the neighborhood. He stated that they feel the rezoning would be consistent with the zoning and use of the remainder of the block and the petitioners believe that this would promote development and would serve the general public welfare.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) LGL Properties City Department Other
Opponents	Groups or Individuals Mr/Mrs Lewis Frisinger Basis of Opposition -expansion would add more traffic to area -expansion is not in keeping with residential character of area
Staff Recommendation	☐ For ☒ Against Reason Against -would have a negative impact on area property values & quality of life in area
Board or Commission Recommendation	By ☐ For ☒ Against ☐ No Action Taken ☐ For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	☐ Pass ☐ Other ☐ Pass (as amended) ☐ Hold ☐ Council Sub. ☐ Do not pass

DETAILS

Robert Hutner questioned if it would not be easier to request a Use Variance from the Board of Zoning Appeals.

Mr. Weliever stated they had considered that idea but it makes more sense to the petitioner to have the property rezoned in case they want to sell the property, since the variance would not be transferable.

Mr. Shoaff made a matter of record a letter of remonstrance from Mr. & Mrs. Lewis Frising, 212 W. Fourth Street.

There was no one else who wished to speak in favor of or in opposition to the proposed rezoning.

27 November 1989 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO NOT PASS recommendation.

Of the seven (7) members present, six (6) voted for the motion, one (1) did not vote.

Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start **Date** 12 October 1989

Projected Completion or Occupancy **Date** 30 November 1989

Fact Sheet Prepared by **Date** 30 November 1989
Patricia Biancaniello

Reviewed by **Date** 12-1-89
Larry Mostuzz

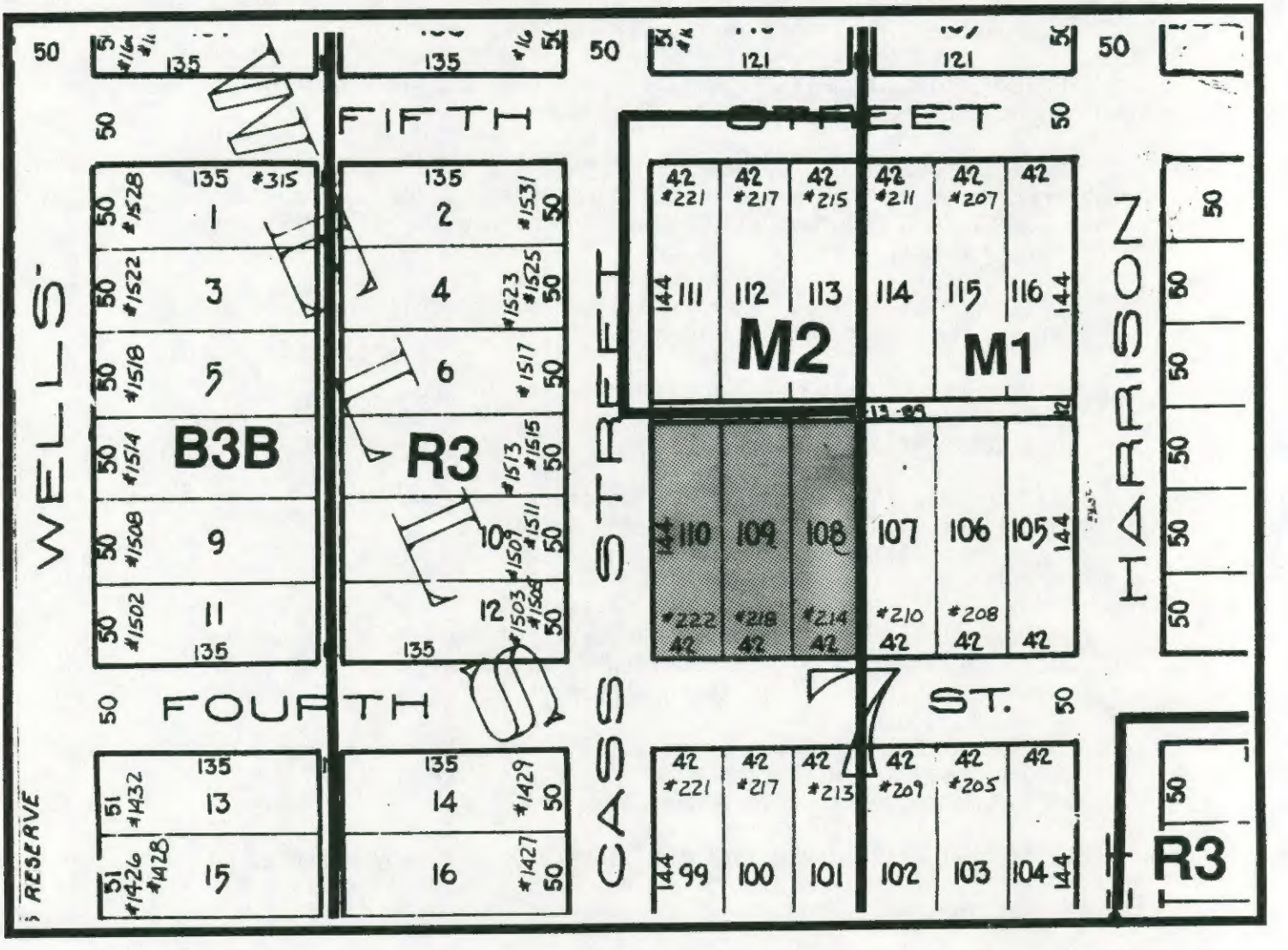
Reference or Case Number

REZONING PETITION #407

A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM A **R3** DISTRICT TO A **M1** DISTRICT.

MAP NO. **L-10**

COUNCILMANIC DISTRICT NO. **3**



ZONING:

R3 RESIDENTIAL DISTRICT

B3B GENERAL BUSINESS "B"

M1 LIGHT INDUSTRY

M2 GENERAL INDUSTRY

LAND USE:

☐ *SINGLE FAMILY*

☐ *COMMERCIAL*

☐ *DUPLEX*

SCALE: 1"=100'

DATE: 11-3-89

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on November 14, 1989 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-89-11-21; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 20, 1989.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;

(3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will not constitute an unusual and unnecessary hardship to this property;

(5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 27, 1989.

Certified and signed this
30th day of November 1989.

Robert Hutner
Secretary

Jeff Gray, agent for LGL Properties, requests a change of zone from R-3 to M-1.

Location: 1514 Cass Street

Legal: Lot 108, 109 and 110 in North Side Addition to the City of Fort Wayne.

Land Area: Approximately 19,500 Sq. Ft.

Zoning: R-3

Surroundings:

North	M-2	Commercial
South	R-3	Residential
East	M-1	Industrial
West	R-3	Residential

Reason for Request: Expansion of business.

Neighborhood Assoc.: North West Central Assoc.

Neighborhood Plan: The subject property is in an area described by the Northwest Central / Bloomingdale Neighborhood plan.

The development of the block on which the subject property is located has occured in contradiction to the plan adopted by the Plan Commission in 1980. At that time, only the northeast quarter of the block was zoned M-1; the rest was zoned R-3. The plan calls for the entire block to become an R-3 district (p. 41), but now the southwest quarter, i.e., the subject proerty, is the only remaining portion zoned for the desired R-3.

The plan calls for light industry to locate in the areas designated for that use by its land use policies. This entire block is not one of those areas.

The encroachment of light industry has also contradicted the policy to conserve and maintain housing in standard condition and to rehabilitate housing with structural defects (p. 43). The plan states that in 1980 between 0% and 19% of this block's housing stock needed major repairs, the lowest catagory identified (pp. 23-25). Between 1975 and 1982 the neighborhood, and this area specifically, received Community Development Block Grant-funded capital improvements (new

curbs and sidewalks) for the purpose of supporting residential uses.

Plan Commission staff advises that the petitioner's current use of the structure on the subject propoerty is probably illegal. Use of this property for activities allowed in a M-1 zone contradicts the adopted neighborhood plan; undermines the residential uses bordering this block on all sides; and precludes the residential use of this site in the future.

For these reasons, neighborhood planning staff recommends that the petition be denied.

Comprehensive Plan: The General Land Use Policies of the Comprehensive Plan state that rezoning and development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed. The three main goals for the Central Area, where this request is located, are: 1) to maintain existing development; 2) to halt deterioration, and; 3) to encourage reinvestment. Industrial encroachment sets a poor precedent in the area and is not compatible with the existing land uses.

Landscape: Recommend that any materials or equipment storage or vehicles kept on site be shielded from view from Cass or Fourth Street frontages.

Planning Staff Discussion:

The area along Harrison Street from the first alley north of Third Street, north to Putnam Street is for the most part, zoned industrial and has a mix of industrial, commercial and residential uses. The area along Cass Street is residential between Second and Sixth Streets.

While the Comprehensive Plan indicates this area as being potentially acceptable for commercial uses, established residential development has been in place for as extended period of time, and is fairly well maintained. In past years this area has seen some capital improvements in sidewalk and curb improvements, in hopes of encouraging residential reinvestment.

A church was previously located on the corner of Cass and Fourth Street, and is currently being used by the petitioner for apparent storage of materials. The lots between the church and

the existing main facility on Harrison Street has been fenced, and is used for storage of materials and parking. This action apparently resulted in a compliant being filed, and subsequent investigation.

The character of uses along both Fourth Street and Cass Street in the immediate vicinity of this site is clearly residential. Approval of this petition would therefore result in negative impacts to both quality of life and property values of these residents. While the potential impact could be softened by the use of buffering techniques, a rezoning petition does not allow for the imposition of conditions. While the residential uses in this area are already exposed to commercial and/or industrial uses and traffic, rezoning would allow for the intensification of that exposure, and be contrary to the goals of the Comprehensive Plan, leading to a potential deterioration of the existing housing stock.

We anticipate opposition from neighborhood residents, based on previous telephone conversations. While some of their (the residents) concerns could be addressed by the imposition of conditions, and still allow for the expansion of the business, rezoning is not the correct vehicle to provide that protection. Further, the expansion of this use would have a very definite impact on the surrounding area and could defeat the intent of the Comprehensive Plan.

Recommendation: Do Not Pass, for the following reasons:

1) Approval would be contrary to the Comprehensive Plan, and the character of existing uses in the immediate area.

2) Approval could have a negative impact on area property values, and the quality of life, and could lead to the deterioration of existing housing stock.

THE CITY OF FORT WAYNE

4 December 1989

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
CityCounty Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-89-04-03

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
4th day of December 1989.

Robert Hutner
Secretary

FACT SHEET

Z-89-04-03
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE
Zoning Ordinance Amendment
From POD to R3

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address
A 2.2 Acre Parcel lying between Winchester Road & Baer Field Thruway.

Reason for Project
Funeral Home

Discussion (Including relationship to other Council actions)

17 April 1989 - Public Hearing

Z K Tazian, applicant, appeared before the Commission. Mr. Tazian stated that he was requesting the zoning change for the sole purpose of developing the property for a funeral home. He stated that the parking will be in the front of the building and and they have planned for a considerable amount of landscaping on the property.

Nancy Moyer, 730 Nightfall Road, appeared before the Commission. Ms. Moyer stated that she wanted to know what guarantee they would have that it would be developed for a funeral home. She stated that they were concerned that anything other than a funeral home would generate heavy traffic. She stated that the area is already plaqued by traffic problems.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Zohrab Tazian City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	[X] For [ ] Against Reason Against
Board or Commission Recommendation	By [X] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for condition
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pass

DETAILS

24 April 1989 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a conditional approval, subject to the petitioners satisfying the following:

a) Public sidewalks, or a commitment for same, shall be provided along the Winchester Road frontage;

b) The requirement for full auxillary lanes with a design speed of 40 mph. To include deceleration, tangent connecting to the proposed Pointe Center Cove (to the south), recovery and passing lanes as required by the "Access Standards Manual", has been imposed upon the POD development. This parcel should agree to participate in the cost of that construction at such time that the POD develops, or when directed to do so by the City.

c) Only one access point shall be used to serve this parcel and the proposed POD to the north.

Of the nine (9) members present, eight (8) voted for the motion, one (1) did not vote. Motion carried.

NOTE: This ordinance has been held until petitioners satisfied the above stated conditions.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start **Date** 16 March 1989

Projected Completion or Occupancy **Date** 4 December 1989

Fact Sheet Prepared by **Date** 4 December 1989

Patricia Biancaniello

Reviewed by **Date** 12-4-89

Larry Magliozzi

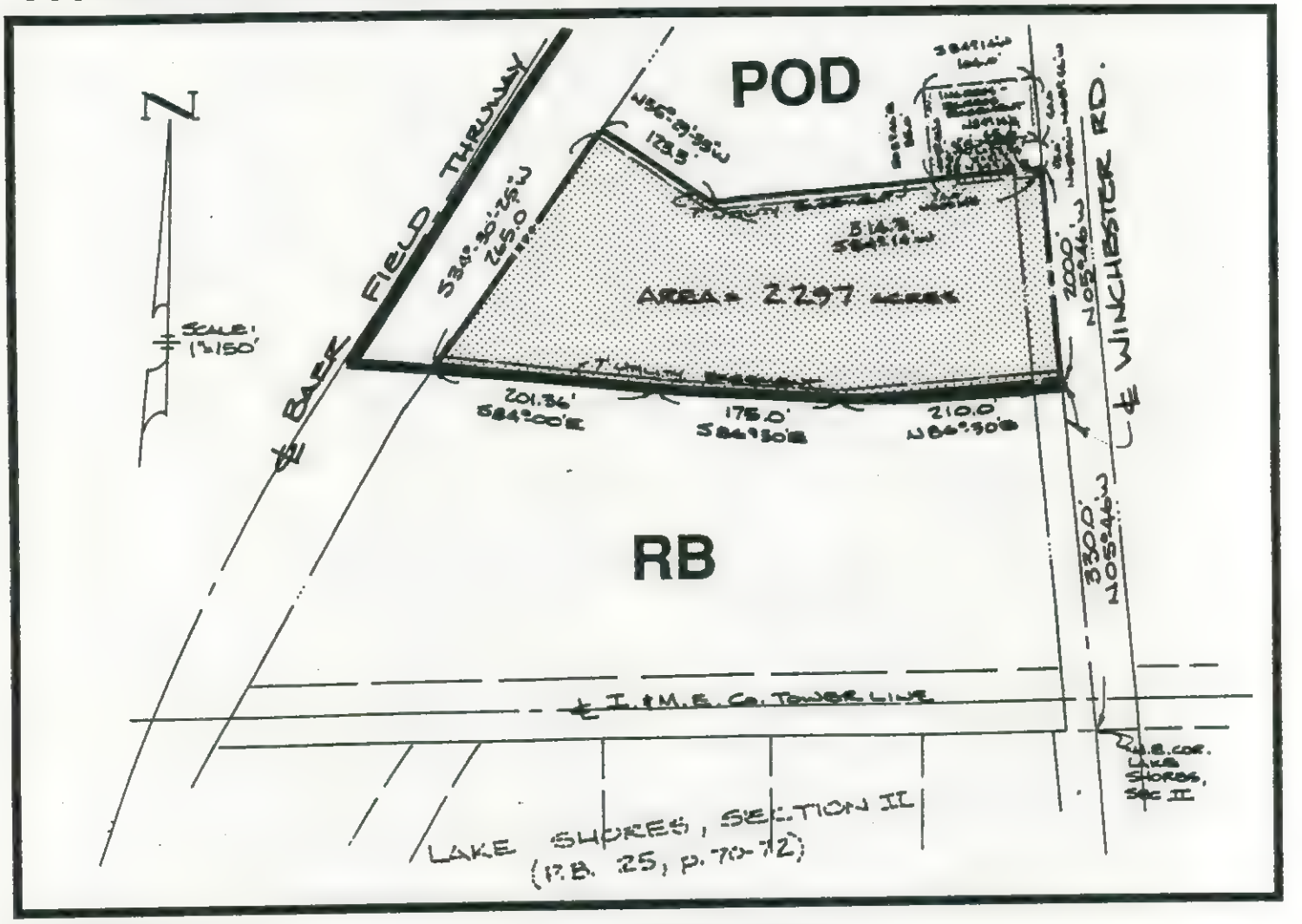
Reference or Case Number

REZONING PETITION #386

A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM A **POD** DISTRICT TO A **R3** DISTRICT.

MAP NO. **L-23**

COUNCILMANIC DISTRICT NO. **5**



ZONING:

POD PROFESSIONAL OFFICE DISTRICT ☐

RB RESIDENCE "B"

LAND USE:

VACANT

SCALE: NTS

DATE: 3-27-89

N

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on April 11, 1989, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-89-04-03;

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on April 17, 1989.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resoluton adopted at the meeting of the Fort Wayne City Plan Commission held 24 April 1989.

Certified and signed this
4th day of December 1989.

Robert Hutner
Secretary

Zohrab K. Tazian requests a change of zone from P.O.D. to R-3.

Location: Winchester Road, approximately 500 feet south of the Baer Field Thruway.

Legal: See file

Land Area: Approximately 2.297 Acres

Zoning: P.O.D.

Surroundings:

North	P.O.D.	Vacant
South	RB	Vacant & SFR
East	RB	Duplex & Church
West	RB	Open

Reason for Request: Funeral home

Neighborhood Assoc.: None

Neighborhood Plan: No comment

Comprehensive Plan: The General Land Use Policies of the Comprehensive Plan state that rezoning and development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed. The Goal in the Middle Ring, where this request is located, is to maintain investments and prevent deterioration in existing neighborhoods. Proposed rezoning will accommodate appropriate buffer uses for residential uses south and east of the area.

Landscape: Require submission of a letter committing the property owner to provide and implement plans providing a min. 6' ft. landscape buffer at the north and south property lines, plus providing for attractive, general site landscaping which softens building architecture, shades and screens parking areas from street view, and provides attractive outdoor spaces for the site users. Plans and installation to be subject to staff review and approval.

Planning Staff Discussion:

This site was rezoned to P.O.D. in the later part of 1988. The Plan Commission will remember reviewing this parcel as part of the Winchester Pointe Professional Center, which was about 4.81

acres of ground at the corner of Winchester and Baer Field Thruway. The primary development plan for that P.O.D. was granted a Conditional Approval, contingent upon the developer satisfying certain conditions. Part of those conditions addressed the need for a grant of an additional 15 feet of right-of-way, and the installation of deceleration, recovery and passing lanes, with the tangent connecting to the proposed street from the duplex subdivision proposed to the south, and a need for landscape buffering.

The requested zoning classification is R-3, which would permit a mortuary. Unfortunately the R-3 classification does not require a development plan review, so the Plan Commission would not have jurisdiction over the actual site lay-out. We believe that the proposed rezoning would allow for a nice transition from single family to duplex to the funeral home site, and finally to the Professional Office District.

However, approval would take this parcel out of the P.O.D., and that would have a major impact on the surrounding area, in regards to traffic access points, and auxiliary lanes. The Plan Commission could place certain conditions which would preserve the intent of the overall development pattern along this portion of Winchester Road. We would suggest that the parcel be limited to only one access, and that access point should be the proposed entrance to the P.O.D. Further, the petitioner should be required to grant an additional 15 of right-of-way (to make 40 feet from the centerline of Winchester Road), and that full auxiliary lanes, including deceleration, tangent connecting the proposed Pointe Center Cove, recovery and passing lanes as required by the "Access Standards Manual" be required. In order to expedite the development of this parcel, we would suggest that those requirements be part of a restrictive covenant.

Recommendation: Conditional Approval, contingent upon the petitioner satisfying the following:

1) Petitioner must submit a recordable document in a form acceptable to the Commission's attorney that provides for the following:

a) Public sidewalks, or a commitment for same, shall be provided along the Winchester Road frontage;

b) The requirement for full auxiliary lanes with a design speed of 40 mph. To include deceleration, tangent connecting to the proposed Pointe Center Cove (to the south), recovery and passing lanes as required by the "Access Standards Manual", has been imposed upon the P.O.D. development. This parcel should agree to participate in the cost of that construction at such time that the P.O.D. develops, or when directed to do so by the City.

2) Require submission of a letter committing the property owner to provide and implement plans providing a min. 6' ft. landscape buffer at the north and south property lines, plus providing for attractive, general site landscaping which softens building architecture, shades and screens parking areas from street view, and provides attractive outdoor spaces for the site users. Plans and installation to be subject to staff review and approval.

3) An additional 15 feet of right-of-way shall be dedicated to the City, in order to make 40 feet from the centerline of Winchester Road;

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 12th day of December, 19 89, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 18th day of December, 19 89.

Sandra E. Kennedy

City Clerk

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA CONGRATULATING BISHOP LUERS HIGH SCHOOL AT WINNING THE 1989 STATE FOOTBALL CHAMPIONSHIP.

WHEREAS, Bishop Luers High School is known in the community for its spirit, academic excellence, alumni support and gridiron toughness; and

WHEREAS, Bishop Luers High School has added another state championship title to its rich history of successful football teams; and

WHEREAS, winning a state championship is a testament to the character of the players, the spirit and support of students and alumni, and the skill and dedication of the coaches and administrators.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA COMMENDS THE 1989 STATE CHAMPION, BISHOP LUERS KNIGHTS FOOTBALL TEAM, NOT ONLY ON THE PLAYING FIELD, BUT FOR THEIR CHARACTER AND DEDICATION.

BE IT FURTHER RESOLVED THAT THE FORT WAYNE COMMON COUNCIL COMMENDS THE STUDENTS, ALUMNI, COACHES AND ADMINISTRATORS OF BISHOP LUERS HIGH SCHOOL, WITHOUT WHOSE SUPPORT THIS HONOR WOULD NOT HAVE BEEN POSSIBLE.

Signed on this 12 day of December, 1989

Charles B. Redd, President

Donald B. Schmidt

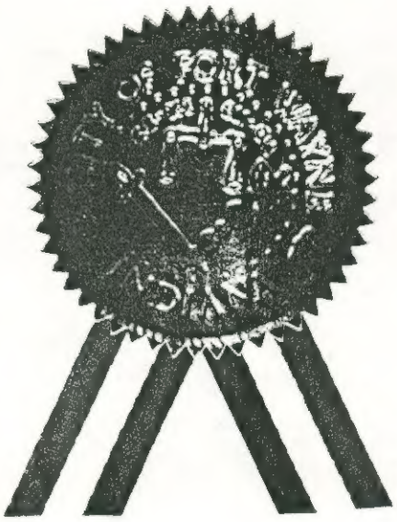
Thomas C. Henry

David C. Long

Mark E. GiaQuinta

Cletus R. Edmonds

Janet G. Bradbury

Paul Mike Burns

Samuel J. Talarico